



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 24, 1994

Ms. Helen M. Gros  
Senior Assistant City Attorney  
Legal Department  
City of Houston  
P.O. Box 1562  
Houston, Texas 77251-1562

OR94-495

Dear Ms. Gros:

Your predecessor asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. The request was assigned ID# 26535.

The City of Houston (the "city") has received a request for the identity of an individual who complained to the city about a horse in the 7900 block of Bertwood. The city has located information responsive to this request, and it has submitted the information for our review. The city contends that section 552.101 of the Government Code, which incorporates the informer's privilege, authorizes the city to withhold from the requestor the name of the complainant.

In *Roviaro v. United States*, 353 U.S. 53, 59 (1957), the United States Supreme Court explained the rationale underlying the informer's privilege:

What is usually referred to as the informer's privilege is in reality the Government's privilege to withhold from disclosure the identity of persons who furnish information of violations of law to officers charged with enforcement of that law. The purpose of the privilege is the furtherance and protection of the public interest in effective law enforcement. The privilege recognizes the obligation of citizens to communicate their knowledge of the commission of crimes to law-enforcement officials, and, by preserving their anonymity, encourages them to perform that obligation. [Citations omitted.]

Although the privilege ordinarily applies to the efforts of law-enforcement agencies, it may apply to administrative officials with a duty of enforcing particular laws. Attorney General Opinion MW-575 (1982) at 2; Open Records Decision Nos. 285 at 1, 279 at 1-2 (1981); *see also* Open Records Decision No. 208 (1978) at 1-2. This may

include enforcement of quasi-criminal civil laws. Open Records Decision Nos. 515 (1988) at 3; 391 (1983) at 3. The informer's privilege also applies to the identity of a person who reports a violation of a municipal ordinance, if the violation constitutes a criminal offense. *See generally* Open Records Decision Nos. 355 (1982); 279 (1981). Significantly, however, the privilege protects the content of communications only to the extent that it identifies the informant. *Roviaro*, 353 U.S. at 60. Additionally, once an individual who would have cause to resent the the communication knows who the informer is, the informer's privilege is inapplicable. *See* Open Records Decision No. 202 (1978) at 2 (quoting *Roviaro*, 353 U.S. at 60).

Your predecessor informed this office that the requested information alleges a violation of city ordinance section 6-6, which regulates the care, keeping, and using of animals within the city limits. We understand that a violation of section 6-6 is a class C misdemeanor. Your predecessor further averred that the complainant made the allegations to the city's Bureau of Animal Regulation and Care, the entity charged with investigating violations of the city's ordinances relating to animals. We note that the information is handwritten, and we have been informed that the handwriting is not that of a city employee; rather, the handwriting is, in all probability, that of the complainant. Finally, we do not understand that the requestor is aware of the complainant's identity.

We agree that the informer's privilege applies to the requested information. Moreover, because the complaint is handwritten, we believe that the entire document tends to identify the complainant. *See* Open Records Decision No. 434 (1986) at 2 (stating that governmental body may withhold informant's entire statement if it would tend to identify him or her); *cf.* Open Records Decision No. 224 (1979) at 2 (stating that educational institution may withhold student's handwritten, unsigned comments under statutory predecessor to section 552.114 because student's identity is easily traceable through handwriting, style of expression, or particular incidents related). We therefore conclude that, pursuant to section 552.101 of the Government Code, the city may withhold the information from the requestor.<sup>1</sup>

Because case law and prior published open records decisions resolve your request, we are resolving this matter with an informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Kymerly K. Oltrogge  
Assistant Attorney General  
Open Government Section

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<sup>1</sup>The informer's privilege, unlike other components of Government Code section 552.101, is discretionary. Open Records Decision No. 549 (1990) at 6. Thus, the city may choose to release the requested information with impunity.

KKO/LRD/rho

Ref.: ID# 26535

Enclosures: Submitted documents

cc: Mr. Clint Walker  
7919 Bertwood  
Houston, Texas 77016  
(w/o enclosures)